

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO
FINAL AGENCY ORDER O-11-008

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF
INTERNATIONAL FIDELITY INSURANCE COMPANY,**

Respondent.

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of INTERNATIONAL FIDELITY INSURANCE COMPANY (the "Respondent"), pursuant to §§ 10-1-204, 10-3-1106, 12-7-108(6) and 12-7-113, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated April 1, 2010 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a property and casualty insurer.
2. In accordance with §§ 10-1-204, 10-3-1106, 12-7-108(6), and 12-7-113, C.R.S., on April 1, 2010, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2008 through December 31, 2008.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered, among other things, such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a report (the "Report"). The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report and all of Respondent's submissions and rebuttals, including but not limited to the Respondent's July 1, 2010 response to the draft market conduct examination.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following: Failure, in some instances, to maintain records required for market conduct purposes. *(This appears to be a repeat of prior issue L in the findings of the market conduct examination report for 2001.)* This failure constitutes violations of § 12-7-108(3), (4) and (5), C.R.S., Division Regulation 1-1-7, Section 4 and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all records required for market conduct purposes are retained and can be provided within the required time period. In the market conduct examination for the period January 1, to December 31, 2001, the Company was cited for failure of agents to maintain and provide records to examiner. The violation resulted in Recommendation #20 of Final Agency Order O-03-266, that the "Respondent shall review, revise and implement all procedures relating to record retention by its agents to ensure compliance with Colorado insurance law." Failure to comply with the previous order of the commissioner constitutes a violation of §10-1-205, C.R.S.
10. Issue A2 concerns the following: Failure to ensure that all persons earning commissions are legally entitled to do so, and that all contracts are in compliance with Colorado insurance law. This failure constitutes violations of §§ 10-2-502(1), 10-2-702(1) and (2), 10-2-1002(1) and (2), and 12-7-102(1) and (2), C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to assure that it does not contract with non-licensed entities and it does not pay commissions to non-licensed entities, to ensure compliance with Colorado insurance law.
11. Issue C1 concerns the following: Failure to establish appropriate procedures to maintain a complete complaint log. This failure constitutes violations of § 10-3-1104(1), C.R.S. and Division Regulation 6-2-1, Section II and Section V. The

Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its complaint record is in compliance with Colorado insurance law.

12. Issue D1 concerns the following: Failure, in some instances, to appropriately contract with producers. This failure constitutes violations of §§ 10-2-415.5(1), and 10-2-416.5, C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that all producers with bail bond authority are contracted and appointed directly with the Company as required by Colorado insurance law.
13. Issue E1 concerns the following: Failure to include the required fraud warning statement in a conspicuous nature on the bail bond application. This failure constitutes a violation of § 10-1-128(6), C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its application sets forth the required fraud warning in a conspicuous manner as required by Colorado insurance law. The Division's records indicate that the Respondent has provided a revised bail bond application that contains the fraud warning in a conspicuous manner. If implemented uniformly by the Respondent's producers, this application appears to have a fraud warning that complies with the corrective actions ordered concerning this violation. This statement is only applicable to the fraud warning and nothing in this paragraph should be construed as approval of the application form as a whole.
14. Issue E2 concerns the following: Failure to indicate whose signatures are required on the promissory note. This failure constitutes a violation of § 12-7-108(1), C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its promissory note indicates that it is to be signed by the defendant or third-party indemnitor and the bail bonding agent as required by Colorado insurance law. The Division's records indicate that the Respondent has provided a revised promissory note that contains a signature line labeled for use by the defendant or third-party indemnitor. If implemented uniformly by the Respondent's producers, this portion of the promissory note appears to comply with the corrective actions ordered concerning this violation. The statement is only applicable to the defendant/third-party signature line and nothing in this paragraph should be construed as approval of the promissory note as a whole.
15. Issue E3 concerns the following: Failure to set forth the terms of release of money or other consideration on the collateral receipt. This failure constitutes violations of § 12-7-108(5), C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its collateral receipts set forth the terms of release of money or other considerations as required by Colorado insurance law.

16. Issue E4 concerns the following: Failure to set forth the terms of release of money or other consideration on the premium receipt. This failure constitutes violations of § 12-7-108(4), C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that its premium receipts set forth the terms of release of money or other considerations as required by Colorado insurance law.
17. Issue F1 concerns the following: Failure to submit/resubmit and implement an acceptable bail bond rate filing as required in calendar year 2004. This failure constitutes violations of § 12-7-110.5(A) and (B), C.R.S., Division Regulation 1-2-15, Section 2, Section 3, Section 4 and Section 5, and Division Regulation 5-1-10, Section 5. The Respondent shall provide evidence to the Division that it has filed its bail bond rates as required by Colorado insurance law and implemented them as appropriate.
18. Issue F2 concerns the following: Failure to establish underwriting criteria to support the premium charged and to apply such criteria uniformly across all underwritten risk. This failure constitutes violations of §§ 10-3-1104(1), 10-4-403(1), 12-7-108(8), 12-7-110.5(1) and (2), C.R.S. and Division Regulation 1-2-15, Section 2, Section 3 and Section 5. The Respondent shall provide evidence to the Division that it has established underwriting criteria sufficient to ensure that similarly situated individuals and risks are treated uniformly in the rates that they are charged and has implemented procedures to ensure that its bail bond producers charge the appropriate, filed premium based on the Company's established underwriting criteria.
19. Issue G1 concerns the following: Failure, in some instances, to keep accurate records and report all premiums received. *(This appears to be a repeat of prior issue E in the findings of the market conduct examination report for 2001.)* This failure constitutes violations of § 10-2-704(1), C.R.S. and Division Regulation 1-2-1, Section 4. The Respondent shall provide evidence to the Division that it has implemented procedures to assure that all premiums are accurately reported in accordance with Colorado insurance law. In the market conduct examination for the period January 1, to December 31, 2001, the Company was cited for failure of agents to report proper premium to the Company. The violation resulted in Recommendation #13 of Final Agency Order O-03-266, that the "Respondent shall review, revise and implement procedures relating to accurate premium reporting by agents to ensure compliance with Colorado insurance law." Failure to comply with the previous order of the commissioner constitutes a violation of §10-1-205, C.R.S.
20. Issue G2 concerns the following: Failure, in some instances, to include all required information on the executed/indemnity agreements. *(This appears to be a partial repeat of prior issue F in the findings of the market conduct examination report for 2001.)* This failure constitutes violations of § 12-7-108(1) and (5), C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to assure that

all executed indemnity agreements include all information required by Colorado insurance law. In the market conduct examination for the period January 1, to December 31, 2001, the Company was cited for failure of agent and principal to sign the bonding agreement as required. The violation resulted in Recommendation #14 of Final Agency Order O-03-266, that the "Respondent shall review, revise and implement procedures all procedures to ensure that both the agent and principal sign the bonding agreements in compliance with Colorado insurance law." Failure to comply with the previous order of the commissioner constitutes a violation of §10-1-205, C.R.S.

21. Issue G3 concerns the following: Failure, in some instances, to create individual documentation for each power-of-attorney used to guarantee a bail bond. This failure constitutes violations of § 12-7-108(3), (4) and (5), C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that bail bonds are not combined on documents where a single form should have been provided for each bond that was posted as required by Colorado insurance law.
22. Issue G4 concerns the following: Failure, in some instances, to include the collateral receipt number in the daily bond register. This failure constitutes violations of § 12-7-108, C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure the collateral receipt number is listed in the daily bond register as required by Colorado insurance law.
23. Issue G5 concerns the following: Failure, in some instances, to include the signature of the bail bonding agent on promissory notes that were executed by the bail bonding agents. This failure constitutes violations of § 12-7-108(1), C.R.S. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure the signature of the bail bonding agent is included on all promissory notes as required by Colorado insurance law.
24. Issue G6 concerns the following: Failure, in some instances, to notify the defendant or third-party indemnitor that the promissory notes received had been satisfied. This failure constitutes violations of § 12-7-108(1) and (5), C.R.S. and Division Regulation 1-2-14, Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to notify the defendant or third-party indemnitor that the promissory notes received have been satisfied as required by Colorado insurance law.
25. Issue G7 concerns the following: Failure, in some instances, to indicate the number of any power-of-attorney form attached to the bond on each premium receipt issued by the agents. This failure constitutes violations of § 12-7-108(4), C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to indicate the number of any power-of-attorney forms attached to the bond on the premium

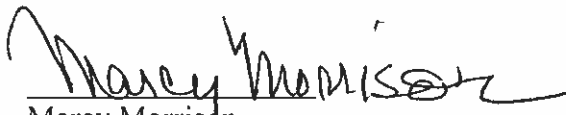
receipts as required by Colorado insurance law.

26. Issue G8 concerns the following: Failure, in some instances, to indicate the premium receipt number in the daily bond register. This failure constitutes violations of § 12-7-108, C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to include the premium receipt number in the daily bond register, as required in the format contained in Appendix A as required by Colorado insurance law.
27. Issue G9 concerns the following: Failure, in some instances, to include the power of attorney number and the name, address, and telephone number of the surety company on the Disclosure Statement as required in the format prescribed by the Commissioner. This failure constitutes violations of § 12-7-108(9), C.R.S. and Division Regulation 1-2-14, Section 4 and Section 5. The Respondent shall provide evidence to the Division that it has implemented procedures to ensure that all required information is included on the Disclosure Statements as such form is defined in Appendix C of Colorado Insurance Regulation 1-2-14.
28. Issue G10 concerns the following: Failure, in some instances, to establish a fiduciary trust account to treat all premiums received belonging to insurers and unearned premiums belonging to insureds in a fiduciary capacity. This failure constitutes violations of § 10-2-704(1) and (3), C.R.S. and Division Regulation 1-2-1, Section 4. The Respondent shall provide evidence to the Division that it has implemented procedures to require its agents to establish a fiduciary trust account to treat all premiums received belonging to insurers and unearned premiums belonging to insureds in a fiduciary capacity as required by Colorado insurance law.
29. The issues and violations described in paragraphs 10 through 28 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Respondent shall pay a civil penalty to the Division in the amount of four hundred forty two thousand and no/100 dollars (\$442,000.00) for the cited violations of Colorado law. Said penalty shall be assessed a 10% surcharge up to \$75,000.00, or \$7,500.00, pursuant to § 24-34-108, C.R.S. for a total balance due of \$449,500.00 which will be due to the Division within 30 days of the signing of this Final Agency Order. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program.
30. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.
31. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or

after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.

32. Copies of the examination report, and this final Order may be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated April 1, 2010, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 2nd day of August, 2010.

A handwritten signature in black ink, appearing to read "Marcy Morrison", with a stylized flourish at the end.

Marcy Morrison
Commissioner of Insurance